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À l'attention de 10/625,398 CENTRAL FAX CENTER

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NOTICE OF APPEAL (6 pages)

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CERTIFICATE OF FAX TRANSMISSION

Notice of appeal, Gilles Boulanger, Roger Bourassa

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Gilles Boulanger

IN THE US PATENT AND TM OFFICE

Serial Number: 10/625,398
Filing Date: 2003/07/23
Applicant: Bourassa, Roger & Boulanger, Gilles
Appn. Title: Hood extension for range and the like
Examiner: James C. Yeung

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Art Unit:3749

March 31st, 2005
Montreal, QUE, Canada

NOTICE OF APPEAL

Commissioner for Patents
Alexandria, VA 22313-1450

In response to the Office letter mailed 01/04/2005, A notice of appeal is hereby filed.

04/01/2005 EKOL11 00000018 10625398
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Rejection under 102**Re: Humbert (2,974,663)**

This invention relates to improvements in ventilating hood assemblies for stoves and ranges and is in fact a ventilator complete in itself and not an extension adapted onto a preinstalled hood. There is no apparent mechanical equivalents and the device is not equivalent mechanically either. Applicant is aware of the existence of ventilating fans for stoves and ranges and it is not the purpose of Applicant's invention to act as a substitute to such types of fans. That Humbert's fan shows some degree of mobility and is stowable doesn't in any way make it anticipate a hood extension created to fit over industry standard stove and range ventilation fans. This reference is very foreign to this instant invention and cannot be considered pertinent. Humbert doesn't describe an extension that can be removed, folded and stowed away at another location but rather a ventilating fan that can be "out of the way, as behind and below the stove or range" it is not physically separated, it is folded and put to a different location, simply moved by articulating means while still being connected to the suction means.

Rejection under 103**Re: Humbert (2,974,663), Koch (5,842,464), and Salem (2,623,516)**

The frying hood of Salem is strictly to protect against spattering of grease, oil or fat. Since it is not connected in any way to a ventilating system and since it creates a closed environment which would in fact contain cooking smoke, one can imagine that the opening or the removal of such a device would release a huge amount of smoke the moment it is removed which goes quite against the grain of this instant invention. It is not because an object is foldable that it automatically anticipate this instant invention. The relevance of the folding of Salem's device to this instant invention is akin to the relevance of a foldable cardboard box.

Koch's invention is the reference which bears the most relevance to this instant invention and was discussed in applicant's previous office action reply, an excerpt of which follows. Stated briefly, Koch lacks foldability which is a very useful and advantageous feature since a hood extension is a rather large implement and leaving it permanently in place can become a hindrance to everyday kitchen activity and that is why it is considered an important feature to provide not only easy mounting and dismounting but also an easy means of compacting the hood extension for unobtrusive and practical stowability.

Excerpt from previous OA reply:

"Although Koch does show a relatively similar invention, there is one important element missing: Koch's invention does not provide for any foldable or collapsible flaps or sides which allow for easy, flat and unobtrusive storage, an important feature when one wants to provide for an extension which is removable in a practical fashion by being stowable in a convenient location. Ranges are quite wide, from 32 inches onward and so is the hood, therefore a hood extension has to be as wide and as such becomes quite cumbersome to stow. By making it

foldable, it is easy to stow it in an unused space such as the spacing between a range and kitchen cabinetry. Therefore, the use of soft, pliable, curtain like material becomes more than just a design choice and becomes critical in providing an obvious advantage to the invention. Therefore it does have a patentable weight. Also the use of a peripheral flap made out of a rigid material having a front and two lateral sides and split at the corners between said front and said lateral sides to allow for folding is also critical for the same reasons as the soft pliable material. "

It is deemed that foldability as taught by this applicant's invention is an important feature and that although the technology to do it was certainly available at the time of Koch's invention, it wasn't implemented. If it would have been so obvious for someone of skill in the art, surely it would have been implemented. Typical commercially available hoods do not go forward to the point of being in line with the front of a range because it was found that such a permanent protuberance in a kitchen environment could be an impediment to everyday kitchen activities, not just activities around the stove but general circulation in a kitchen, as well as for reaching cabinets situated above a stove. If Koch didn't see that then it must not that been so obvious therefore Examinetr's 103 objection is considered to be moot.

Trying to combine the teaching of Koch, Salem and Humbert is an example of monday morning quarterbacking. Moreover, Examiner states in his Final Office action page 2 line 19 that :" the disclosed plastic is molded which inherently anticipated pliability". Not all molded plastics are "pliable". Yes, when hot and in a molten state for molding but "pliable" as used by applicant in his description on page 5 line 2 stated: "soft, pliable, curtain like material" meaning in the context it was written that the emphasis was on soft and curtain like as being the state in a standard room temperature. There are hundreds of thousands of products made out of molded plastics from ATV fenders to clock radio and no one would consider the body of a clock radio to be "soft and pliable" but rather rigid and breakable when attempting to unduly change its shape. One cannot simply decide to put Koch's invention "pliable". Pliable how? So that it bends and sags? Applicant specifies that only "The peripheral flap (14) can be of a soft, pliable, curtain like material or be rigid, in which case it would be split at the corners between the front and the two lateral sides to allow for folding." (page 5, line 2)

There is no indication whatsoever in Koch's disclosure that he wanted to have its sides soft and pliable, otherwise he would have said so. Surely the technology was available at the time the invention was made.